IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 11892 of 2004

Between:

1.BoppanaRamaRao, S/o.Venkata Raju,
R/o.Valluru Village, Kapileswarapuram Mandal, East Godavari Dist.
2.Boppana Panasaramanna, S/o.Venkata Raju,
R/o.Valluru Village, Kapileswarapuram Mandal, East Godavari Dist.
3.Boppana Subba Rao, S/o.Venkata Raju,
R/o.Valluru Village, Kapileswarapuram Mandal, East Godavari Dist.
4.Boppana Satyanarayana, S/o.Venkata Raju,
R/o.Valluru Village, Kapileswarapuram Mandal, East Godavari Dist.
5.Boppanna Veeraju, S/o.Venkata Raju,
R/o.Valluru Village, Kapileswarapuram Mandal, East Godavari Dist.

..... PETITIONERS

AND

1.Regional Joint Commissioner of Endowments, Kakinada, E.G.Dist.
2.Asst.Commissioner of Endowments, Rajahmundry, E.G.Dist.
3.Sri Venugopala Swamy Temple, Valluru Village,

Kapileswarapuram Mandal,E.G.Dist.rep. by its Executive

Authority.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order or direction, more particularly one in the nature of writ of mandamus declaring the action of the respondents in taking steps to dispossess the petitioners from the lands an extent of Ac.5.70 cents in R.S.No. 271/4, 282/5A, 263/2A and 273/3B of Valluru village, Kapileswara Mandal, East Godavari Dist and conducting

the auction of the leasehold rights in respect of the said lands pending consideration of the claim of the petitioners before the 2nd respondent as illegal, arbitrary and contrary to the stature, consequentially directing the respondents to drop further proceedings to dispossess the petitioner's from the said land and pass.

Counsel for the Petitioners: MR.T.V.S.PRABHAKARA RAO

Counsel for the Respondent No.2 & 3: GP FOR ENDOWMENTS

Counsel for the 3rd respondent: Smt N.Indrani

The Court made the following :

ORDER:

The petitioners filed this Writ Petition seeking declaration that the action of the respondents in taking steps to dispossess the petitioners from the lands in an extent of Ac.5.70 cents in R.S.No.271/4, 282/5A and 263/2B, 273/3B of Valluru village, Kapileswarapuram Mandal, East Godavari district and proposing to conduct auction of the leasehold rights in respect of the said lands, as illegal and contrary.

The petitioners state that they have been in possession and enjoyment of the lands in question belonging to the 3rd respondent Temple for the past thirty years. Notice under rule 5(1) of the Rules under G.O.Ms.No.379 was issued by the temple on 24-05-2004 terminating the tenancy. However, the petitioners made a claim before the 2nd respondent on 19-06-2003 claiming that they are landless poor persons and as such entitled to the benefit under Section 82(2) of the Act 30 of 1987. It is alleged that while the matter is pending before the 2nd respondent, the 3rd respondent temple proposed to conduct public auction in respect of the leasehold rights of the lands in question and that the auction was scheduled to be held on 14-07-2004. Challenging the same, the present Writ Petition is filed.

This Court by order dated 13-07-2004 while adjourning the matter to 22-07-2004 to enable the learned counsel for the respondents to obtain instructions, granted interim stay of auction.

Now the learned counsel for the respondents under instructions states that the Assistant Commissioner of Endowments, Rajahmundry, having considered the claim of the petitioners, passed an order dated 08-07-2004 holding that the petitioners were never recognized as tenants and accordingly their claim was rejected.

Against the said order an appeal lies to the Regional Joint Commissioner and if the petitioners are aggrieved, it is open to them to challenge the correctness of the said order by filing necessary appeal. Since there is already an adjudication by the Assistant Commissioner of Endowments, the relief as prayed for cannot be granted in this writ petition.

In the circumstances, the Writ Petition is disposed of granting leave and liberty to the petitioners to file an appeal against the order of the Assistant Commissioner of Endowments, Rajahmundry along with necessary application seeking stay of all further proceedings pending appeal. Further, there shall be a direction to the respondents not to conduct any fresh auction till 31-08-2004.

Accordingly, the Writ Petition is disposed of. No costs.

22nd JULY 2004

Note:- Furnish CC in 3 days.

(B/O)

BSS/GBS

ASSISTANT REGISTRAR

//true copy//

SECTION OFFICER

To

1.Regional Joint Commissioner of Endowments, Kakinada, E.G.Dist.
2.Asst.Commissioner of Endowments, Rajahmundry, E.G.Dist.
3. The Executive Authority, Sri Venugopala Swamy Temple,

Valluru Village,

Kapileswarapuram Mandal,E.G.Dist.

4.2CCs to G.P. for Endowments, High Court Buildings,

Hyderabad (OUT)

5.2CD copies

*Form-NIC-OGS/WP{**JA**}*